

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
11 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 05/12/04 Item .

File Number
CP 04-010

Application Type
Conditional Use Permit

Council District
9

Planning Area
Cambrian-Pioneer

Assessor's Parcel Number(s)
523-38-025

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Lori Moniz

Location: West side of Taft Drive approximately 140 feet southerly of Coronet Drive (5449 Taft Drive)

Gross Acreage: 1.32

Net Acreage: 1.32

Net Density: N/A

Existing Zoning: R-1-8 Residence

Existing Use: PG& E Tower w/ 3 wireless communication antennas

Proposed Zoning: No change

Proposed Use: Existing use w/ 3 additional wireless communication antennas

GENERAL PLAN

Completed by: Lori Moniz

Land Use/Transportation Diagram Designation
Medium Low Density Residential (8 DU/AC)

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: Lori Moniz

North: Single-family detached residential

R-1 Residence

East: Single-family detached residential/public utility corridor

R-1 Residence

South: Single-family detached residential

R-1 Residence

West: Single-family detached residential/public utility corridor

R-1 Residence

ENVIRONMENTAL STATUS

Completed by: Lori Moniz

Environmental Impact Report found complete
Negative Declaration circulated on
Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: Lori Moniz

Examination Title: Union No. 4

Date: August 30, 1956

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
Approval with Conditions
Denial
Uphold Director's Decision

Date: _____
☐ _____

Approved by: _____
☒ Action
☐ Recommendation

APPLICANT/OWNER

Pacific Gas and Electric Co.
c/o Hilderbrand
17 Beale Street
San Francisco, CA 94105

DEVELOPER

Kristina Woerner
The Alaris Group (for Sprint PCS)
185 Berry Street, Suite 5300
San Francisco, CA 94107

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Lori Moniz

Department of Public Works

No comments

Other Departments and Agencies

Fire

GENERAL CORRESPONDENCE

Sharon Rose-Luddy and Kris Bazán (attached)

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The developer, Sprint PCS, is requesting a Conditional Use Permit to allow the installation of three wireless communication antennas on an existing PG&E transmission tower of approximately 117.5 feet in height, and the placement of a 200 square foot equipment shelter at the base of the tower. Currently, there are three (3) other existing wireless communication antennas (approved in 2000 under file #CP00-056) for AT&T Wireless installed midway to the top of the tower and an existing microwave dish at the top. The Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas in the R-1-8 Residence Zoning District.

The site is located within a 65-foot wide PG&E right-of-way on the west side of Taft Drive between the rear yards of single-family residences fronting on Coronet Drive and Blossom Valley Drive. It is bounded by single-family detached residential uses and other PG&E transmission towers within the PG&E corridor to the east and west. Single-family detached residences are also located to the north and south.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from the antennas.

Project Description

The proposed project consists of the installation of three (3) wireless communication antennas on an existing PG&E utility tower approximately 117.5 feet in height. The three proposed antennas will be installed at the top of the tower and will have a maximum height of approximately 117 feet. Each antenna panel measures approximately five feet tall by one foot wide. A 10 x 20-foot equipment enclosure is proposed to be located directly under the utility tower to house associated equipment. The enclosure will be comprised of a 6-foot tall

redwood fence. Coaxial cables, routed down the tower to an underground conduit will connect the antennas to the equipment within the enclosure. This proposal does not include an emergency back-up generator.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from further environmental review under Section 15303 of the provisions of the California Environmental Quality Act (CEQA). Under Section 15303 Class 3 exemptions consists of construction and location of new, small facilities or structures; installation of small new equipment and facilities in small structures; and, the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed project consists of minor construction and installations consistent with the type of projects exempt from CEQA.

GENERAL PLAN CONFORMANCE

The subject site is designated Medium Low Density Residential (8 DU/AC) on the San José 2020 General Plan Land Use/Transportation Diagram. The General Plan states that developed parcels of two acres or less are considered to conform with the General Plan regardless of how the parcel is designated on the Land Use/Transportation Diagram. The subject site is 1.32 acres in size and contains existing public utility improvements therefore is considered to conform to the General Plan.

ANALYSIS

The primary issue analyzed under this proposal include conformance to 1) the Zoning Ordinance, and 2) the City Council Policy 6-20, Land Use Policy for Wireless Communications Antennas, which provides criteria for siting such facilities including location, setbacks from residential uses, and parking.

Conformance to the Zoning Ordinance

The location of the proposed antennas and equipment conform to the setback requirements of the R-1-8 Residence zoning district. Additionally, under section 20.80.1900, specifically related to wireless communication antennas, new antenna structures mounted on existing buildings or structures may extend up to 10 feet above the height of the existing structure provided that the antennas are architecturally integrated into the structure and do not add to the visual clutter of the structure. In this case the placement of the antennas will be placed in such a manner that the height of the existing tower will not be increased and therefore comply with the height allowance in the Zoning Code.

The proposed project does not include either a temporary or permanent emergency back-up generator. In the event the installation of such equipment is proposed in the future, such a proposal would be subject to a Special Use Permit and additional environmental review.

Conformance to City Council Policy 6-20 for Wireless Communications Antennas

The City Council policy generally discourages wireless communications facilities on residential properties except those developed solely with public utilities, parks or schools. The proposed project will locate three wireless communications antennas on an existing PG&E tower and the associated equipment in a designated corridor for high-tension lines exceeding 200 kilovolts consistent with Council policy.

The Council policy requires building mounted antennas be located a minimum of 35 feet horizontally from any property with a residential use or residential General Plan designation. The structure-mounted antennas are located a minimum of 39 and 43 feet horizontally from the two closest existing single-family residential properties consistent with Council policy.

The Council Policy requires building mounted antennas to be located to minimize visual impacts and to be architecturally integrated into the structure. It also requires ancillary equipment to be screened. The proposed antennas are collocated on an existing PG&E utility pole that has existing overhead service lines. Although visible, the antennas will be painted to match the existing color of the utility pole and will not significantly add to the visual impacts already created by existing utility poles and overhead service lines on the site.

The equipment enclosure is proposed to be screened by redwood fencing. Since the equipment is also located behind existing rear yard fences, the proposed equipment and enclosure will not be visible from adjacent properties. Additionally the project will be conditioned to install any missing street trees and irrigation on Coronet Drive and Blossom Valley Drive. The project will not eliminate required parking consistent with Council policy.

PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the subject site. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report. Staff has been available to discuss the project with interested members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The General Plan states that developed sites that are two acres or less in size conform to the General Plan regardless of how it is designated on the Land Use/Transportation Diagram.
3. The subject site is 1.32-acres in size and is owned and developed as a public utility facility corridor with several tall high-tension power lines.
4. The proposed project includes installation of three wireless communication antennas on an existing PG&E utility pole 117.5 feet in height that currently has three wireless communication antennas and a microwave dish antenna.
5. The proposed antennas will not increase the overall height of the existing utility tower.
6. The project site is located in the R-1-8 Residence zoning district which establishes front, rear and side setbacks of 25, 20 and 5 feet respectively.

7. The City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities recommends that new antenna structures provide a 35-foot setback from adjacent residential uses.
8. The proposed improvements are located a minimum of 39 feet from the closest residential property line.
9. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.
10. The antennas will be painted to match the existing structure to minimize the visual impacts created by existing utility towers and overhead service lines on the site.
11. The proposed equipment enclosure will effectively screen the equipment with a new 6-foot tall wooden fence.
12. The project does not reduce the existing on-site parking.
13. The proposed project does not include an emergency back-up generator.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project conforms to the site's General Plan Land Use Transportation Diagram designation of Medium Low Density Residential (8 DU/AC).
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and

3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Sprint PG&E Tower SF60XC861-A" dated December 17, 2003 , revised April 22, 2004, on file with the Department of Planning, Building and Code Enforcement.
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
4. **Lighting.** This permit allows no on-site lighting.
5. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.

6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
8. **Colors and Materials.** All building, structures and fencing colors and materials are to be those specified on the approved plan set.
9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 04-010 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
0. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as required to the satisfaction of the Fire Chief.
 1. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
 2. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
 3. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
 4. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
 5. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, structures, fencing, and wall surfaces within 48 hours of defacement.

6. **Street Trees.** The applicant shall replace missing street trees along Coronet Drive and Blossom Valley Drive. A permit from the Department of Streets and Traffic is required.
7. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
8. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
9. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements and related equipment/enclosures associated with this permit within 30 days.
10. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall allow the co-location of PCS antennas for other providers. Other wireless providers shall also be allowed to add on to existing at grade equipment enclosures.
11. **Generators.** This project does not permit the use temporary or permanent emergency back-up generators unless otherwise approved by the Director of Planning.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

